IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1420 OF 2005

Harmindharsingh Gurmeetsingh
Ramgadiya, Thru' his Constituted Power
of Attorney, Mr. Daljit Singh Gurmej
Singh Ramgadiya ..Petitioner.

Vs.

Sou. Hema Maruti Mehtre ..Respondent.

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Mr. S.S.Deshmukh for the Petitioner.

Ms.Leena Patil i/b Mr.P.M.Pradhan for the Respondent.

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CORAM : DR.D.Y.CHANDRACHUD, J.

16th March, 2006.

P.C. :

1. Rule, made returnable forthwith. By consent the matter is taken up for hearing and final disposal.

2. The Additional District Judge at Sangli dismissed Misc. Civil Appeal 27 of 2004 against an order of the Trial Court rejecting an application for interim injunction. In paragraph 10 of the impugned judgment, the First Appellate Court has observed thus :

> "Though total area of the suit open plot is mentioned in the sale-deed, length or width of the suit open plot is not mentioned either in the sale deed or in the application (Exh-5). Without particulars of length and width of the suit open plot it is difficult to hold that the said wire compound erected by the appellant is on or within southern boundary of the suit open plot."

3. There is merit in the submission which has been urged on behalf of the Petitioner that the observation to the effect that the length or the width of the suit plot is not mentioned in the application is erroneous. The Application for the grant of interim injunction specifically mentions

the dimensions and the boundaries of the plot in paragraph 1. In the circumstances, counsel appearing for the Respondent does not dispute this position. Hence, the impugned order dated 1st October, 2004 is quashed and set aside. Misc. Civil Appeal 27 of 2004 is restored to the file of the Additional District Judge, Sangli for fresh disposal on merits after furnishing to the parties an opportunity of being heard. The Petition is accordingly disposed of.